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19. ACQUISITION OF FOREIGN AUTOMATIC DATA PROCESSING (ADP) RESOURCES.

SYNOPSIS. This regulation sets forth policy, responsibilities and procedures governing the acquisition of foreign ADP resources.

- a. AUTHORITY. This regulation is promulgated pursuant to the authority contained in paragraph 102c(3)(d) of the National Security Act of 1947, as amended, which provides that the "Director of Central Intelligence shall be responsible for protecting intelligence sources and methods from unauthorized disclosure."
- b. GENERAL. The growing presence of foreign ownership, control and influence in the development, production and marketing of high technology ADP resources poses a threat to the security of Agency Automatic Data Processing activities. Dependence on a foreign source could result in a denial of service or a modification which might result in the unauthorized disclosure of intelligence Sources and Methods. It is essential that controls on the acquisition of these products and services be established in order to minimize or eliminate this threat.
- c. DEFINITIONS.
 - (1) ADP RESOURCE is defined as any electronic or electro-mechanical

system, subsystem, associated software, support or services used for the purpose of processing or storing information.

(2) FOREIGN ADP RESOURCE includes:

(a) Any ADP system or subsystem developed, manufactured or assembled on foreign soil or produced by an organization or entity that is under foreign ownership, control or influence.

(b) Any support or service provided by a foreign national or a firm under foreign ownership, control or influence.

(3) FOREIGN OWNERSHIP, CONTROL OR INFLUENCE is that which results from direct or indirect beneficial ownership of five percent of any firm, corporation or entity, foreign national representation on a Board of Directors or the encumbrance of an influential position in corporate management.

d. POLICY. Effective immediately, it is this Agency's policy NOT to procure FOREIGN AUTOMATIC DATA PROCESSING RESOURCES except as provided for by procedures established in this regulation. In furtherance of this policy, all Agency procurement actions for ADP resources shall contain the clause set forth in Appendix A.

e. PROCEDURES.

- (1) Requests for the procurement of foreign ADP resources or the exclusion of the FOREIGN ADP resource clause from a procurement action must be approved by the Director of Logistics with the concurrence of the Director of Security or their designees. The request will be prepared by the program office and forwarded to the contracting officer with the procurement documentation.
- (2) The request shall fully set forth the justification for an exception and include, at a minimum, the following:
 - (a) The necessity to acquire or utilize foreign ADP resources.
 - (b) A general statement of why U.S. firms cannot or should not provide the ADP resources.
 - (c) A general statement of the security risks inherent in such a procurement and the measures, if any, to be taken by the program office to minimize the risks.
 - (d) A general statement on the TEMPEST hazard, if any. This information may be obtained from the Communications Security Division of the Office of Communications.
- (3) The contracting officer will present the exception request to the Agency Contract Review Board for their recommendations prior to seeking approval.

- f. EXCEPTIONS. Exceptions to the policy of not acquiring or utilizing foreign ADP resources will only be warranted when technical, operational or mission considerations necessitate such action. In accordance with this principle, requests for an exception will be considered when:
- (1) Overriding technical operational or administrative requirements support such a procurement.
 - (2) The procurement of the system does not pose an unacceptable risk to security.
 - (3) The system is composed primarily of U.S. assembled ADP systems and subsystems, serviced and supported by U.S. Nationals and any foreign content is limited to:
 - (a) A critical system or subsystem acquired from a foreign manufacturer as a non-dedicated stock item requiring no direct support or service from the foreign manufacturer and a U.S. owned support organization exists such that interaction with a foreign manufacturer will not be required throughout the life of the system.
 - (b) A non-critical system or subsystem of limited complexity.
 - (4) The system is being purchased from a foreign manufacturer in a manner such that attribution to the Central Intelligence Agency, as the ultimate user of the system, will be protected throughout the

life of the system.

- (5) The foreign ADP resource will be permanently dedicated to unclassified or non-sensitive applications.